

COTTONWOOD HEIGHTS

ORDINANCE No. 353

AN ORDINANCE ENACTING AND CODIFYING CHAPTER 10.42, “TARGETED RESIDENTIAL PICKETING,” OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES

WHEREAS, public health and welfare and the good order of the community require that citizens enjoy in their homes and neighborhoods a feeling of well-being, tranquility and privacy, as well as freedom from being a captive audience to unwanted speech in their homes; and

WHEREAS, the practice of targeted residential picketing causes emotional disturbance and distress to residents, and has the potential to incite breaches of the peace and disrupt the well-being and tranquility of the home; and

WHEREAS, full opportunity exists for individuals to exercise their rights of free speech without resorting to targeted residential picketing; and

WHEREAS, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) desires to establish reasonable time, place and manner restrictions that reconcile and protect the First Amendment rights of citizens to peacefully communicate and express their ideas with the right of persons to enjoy the right of tranquility, well-being and privacy in their residential dwellings; and

WHEREAS, the United States Supreme Court previously has upheld a municipal ordinance that banned targeted residential picketing in front of a particular residence in order to protect residential privacy and to protect the inhabitants from hearing or seeing unwanted messages; and

WHEREAS, the Council met in regular session on 19 January 2021 to consider, among other things, enacting and codifying new Chapter 10.42 (“*Chapter 10.42*”) of the City’s code of ordinances (“*Code*”) in order to restrict targeted residential picketing in the City as described in Chapter 10.42; and

WHEREAS, after careful consideration of the findings set forth above, the Council has determined that it is in the best interest of the health, safety and welfare of the City’s residents to amend the Code by adopting and codifying new Chapter 10.42 as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption and Codification of Chapter 10.42.** The Council hereby approves and adopts Chapter 10.42 in the form attached hereto, and hereby codifies the same as Chapter 10.42 of the Code.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this “*Ordinance*”), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date.** This Ordinance, assigned no. 353, shall take effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 19th day of January 2021.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: 

Paula Melgar, Recorder



By: 

Michael J. Peterson, Mayor

VOTING:

Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Douglas Petersen	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Christine Watson Mikell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 19th day of January 2021.

POSTED this 20th day of January 2021.

Chapter 10.42

TARGETED RESIDENTIAL PICKETING

Sections:

10.42.010 Findings and scope.

10.42.020 Purpose.

10.42.030 Definitions.

10.42.040 Prohibition.

10.42.050 Penalty for violation.

10.42.010 Findings.

The city council finds and determines:

A. The protection of the home is of the highest importance. The public health and welfare and the good order of the community require that citizens enjoy in their homes and neighborhoods a feeling of well-being, tranquility, and privacy, and enjoy freedom from being a captive audience to unwanted speech in their homes.

B. Residents of various jurisdiction in Salt Lake County and elsewhere in the state of Utah have experienced picketing and demonstrations targeted at specific residences.

C. The practice of picketing or demonstrations targeted at specific residences causes emotional disturbance and distress to residents, and has the potential to incite breaches of the peace and disrupt the well-being and tranquility of the home. Such targeted residential picketing infringes on the residents' right to tranquility and privacy in their homes and freedom from being a captive audience to unwanted messages while in their homes, and adversely affects other governmental interests.

D. Full opportunity exists for individuals to exercise their rights of free speech without resorting to targeted residential picketing.

E. In *Frisby v. Shultz*, 487 U.S. 474 (1988), the United States Supreme Court upheld a municipal ordinance that banned picketing in front of a particular residence, in order to protect residential privacy and to protect the inhabitants from hearing or seeing unwanted messages.

F. Prohibiting residential picketing and demonstrations within 100 feet of a targeted residence properly balances two competing interests:

1. The right of residents to residential privacy and to be free from being a captive audience to unwanted speech in their homes; and

2. The constitutional right of the picketers to have reasonable access to their intended audience.

G. It is in the best interest of the city's residents to protect the public peace, health, safety, tranquility, privacy and welfare as provided in this chapter.

10.42.020 Purpose.

This chapter is enacted to protect the significant public interests stated above and not to suppress free speech rights of any particular viewpoint. This chapter is intended to be a content-neutral time, place, and manner regulation on speech in public forums.

10.42.030 Definitions.

As used in this chapter:

A. “*Picketing*” means the stationing or posting of one or more persons to apprise the public, vocally or by standing or marching with signs, banners, sound amplification devices, or other means, of an opinion or a message.

B. “*Residence*” means any single-family, duplex, or multifamily dwelling where the targeted occupant resides and is not used as a targeted occupant’s sole place of business or as a place of public meeting.

C. “*Targeted residential picketing*” means picketing that:

1. Is specifically directed or focused toward a residence, or one or more occupants of a residence; and
2. Takes place within one hundred (100) feet of the property line of that residence.

10.42.040 Prohibition.

It is unlawful for any person, acting alone or in concert with others, to engage in targeted residential picketing in the city of Cottonwood Heights.

10.42.050 - Penalty for violation.

Any violation of this chapter is a Class B misdemeanor.